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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 2000



ENROLLED

SENATE BILL NO. 641

(By Senator Wooten, et al)



PASSED March 11, 2000

In Effect from Passage

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SECRETARY OF STATE

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Senate Bill No. 641

(BY SENATORS WOOTON, BALL, DAWSON, DITTMAR,
HUNTER, KESSLER, MINARD, MITCHELL, OLIVERIO,
REDD, ROSS, SNYDER, DEEM AND MCKENZIE)

[Passed March 11, 2000; in effect from passage.]

AN ACT to amend article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new section, designated section twenty-eight, relating to creating the offense of criminal invasion of privacy; definitions; penalties; and enhanced penalties for second and subsequent offenses.

Be it enacted by the Legislature of West Virginia:

That article eight, chapter sixty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new section, designated section twenty-eight, to read as follows:

ARTICLE 8. CRIMES AGAINST CHASTITY, MORALITY AND DECENCY.

§61-8-28. Criminal invasion of privacy; penalties.

1 (a) For the purposes of this section, the words or terms
2 defined in this subsection have the meanings ascribed to
3 them. These definitions are applicable unless a different
4 meaning clearly appears from the context:

5 (1) "A person fully or partially nude" means a male or
6 female who is either clothed or unclothed so that: (A) All
7 or any part of his or her genitals, pubic area or buttocks is
8 visible; or (B) in the case of a female only, a part of a
9 nipple of her breast is visible and is without a fully opaque
10 covering;

11 (2) "To visually portray" a person means to create a
12 reproducible image of that person by means of:

13 (A) A photograph;

14 (B) A motion picture;

15 (C) A video tape;

16 (D) A digital recording; or

17 (E) Any other mechanical or electronic recording process
18 or device that can preserve, for later viewing, a visual
19 image of a person; and

20 (3) "Place where a reasonable person would have an
21 expectation of privacy" means a place where a reasonable
22 person would believe that he or she could, in privacy, be
23 fully or partially nude without expecting that the act of
24 exposing his or her body was being visually portrayed by
25 another person.

26 (b) It is unlawful for a person to knowingly visually
27 portray another person without that other person's
28 knowledge, while that other person is fully or partially
29 nude and is in a place where a reasonable person would
30 have an expectation of privacy. A person who violates the
31 provisions of this subsection is guilty of a misdemeanor

32 and, upon conviction, shall be confined in a county or
33 regional jail for not more than one year or fined not more
34 than five thousand dollars, or both.

35 (c) Any person who displays or distributes visual images
36 of another person with knowledge that said visual images
37 were obtained in violation of subsection (b) of this section
38 is guilty of a misdemeanor and, upon conviction, shall be
39 confined in a county or regional jail for not more than one
40 year or fined not more than five thousand dollars, or both.

41 (d) A person who is convicted of a second or subsequent
42 violation of subsection (b) or (c) of this section is guilty of
43 a felony and, upon conviction, shall be confined in a state
44 correctional facility for not less than one year nor more
45 than five years or fined not more than ten thousand
46 dollars, or both.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
.....
Chairman Senate Committee

[Signature]
.....
Chairman House Committee

Originated in the Senate.

In effect from passage.

[Signature]
.....
Clerk of the Senate

[Signature]
.....
Clerk of the House of Delegates

[Signature]
.....
President of the Senate

[Signature]
.....
Speaker House of Delegates

The within..... *approved* this the *29th*
Day of *March* 2000
[Signature]
.....
Governor

PRESENTED TO THE

GOVERNOR

Date

3/23/00

Time

4:05pm